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Summary record of the 11th meeting
Held at Headquarters, New York, on Tuesday, 21 October 2008, at 10 a.m.

Chairperson: Mr. Al Bayati ..... (Iraq)

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08-56180 (E)

The meeting was called to order at 10.10 a.m.

Agenda item 72: Nationality of natural persons in relation to the succession of States (A/59/180 and Add.1 and 2; A/63/113)

1. **Mr. Sethi** (India) recalled that the articles on nationality of natural persons in relation to the succession of States, contained in annex to General Assembly resolution 55/153, emphasized that the legitimate interests of States and those of individuals in nationality were governed by internal law within the limits set by international law. Article 1 established the principle that every person had the right to a nationality, while article 3 limited the scope of the draft articles to cases of succession of States occurring in conformity with international law; accordingly, occupation of territory by the use of force and separation of territories involving the rights of third States without their consent were not covered.

2. The presumption of nationality of the successor State, set out in article 5, played a key role in the scheme of the articles. Although article 11 provided the option to choose between the nationality of the predecessor State and that of the successor State, it was expected that the option would be exercised within a time limit prescribed by the State concerned. Article 10 stated the obvious principle of loss of nationality upon the voluntary acquisition of the nationality of another State. The articles intentionally refrained from either endorsing or denouncing the right of States to grant or recognize dual or multiple nationalities. The provisions of Part II, relating to specific categories of succession of States, were generally satisfactory.

3. While the articles established several important principles, their status was essentially that of guidelines that could be useful to States in drawing up appropriate legislation on nationality. They honoured the primacy of domestic law as long as the principles of non-discrimination, right to nationality and right of option were respected, and his delegation endorsed the recommendation of the International Law Commission that the articles should be adopted by the General Assembly in the form of a declaration in order to give States the necessary flexibility in applying them.

4. **Ms. Orina** (Kenya), speaking on behalf of the Group of African States, said that it was important to avoid statelessness after the dissolution of States or upon State succession. She therefore commended the valuable work of the International Law Commission on the nationality of natural persons in relation to the succession of States.

5. The right to a nationality was one of the most important human rights, since it gave natural persons the juridical status necessary for the legal protection of their human dignity. Any attempts to regulate that fundamental right must be just and in conformity with existing or prospective domestic and international law.

6. In the event of State succession, permanent residents' possibilities of naturalization must not be unduly frustrated. A person who was not a national of the successor State must have the right either to acquire the citizenship of that State, or to maintain their original citizenship, in order to avoid statelessness. Similarly, States must take the requisite steps to prevent interference with family unity in the event of the acquisition or loss of citizenship; avoiding statelessness promoted peace between States and encouraged social interaction and relationships among residents.

7. Successor States must avoid discrimination based on sex, race, language, religion, political or social opinions, national or social origin, association with a national minority, property or place of birth when granting the right to citizenship, and States and international organizations should promote the exchange of information and negotiations on the matter.

8. **Mr. Yola** (Nigeria) said that States should take the articles into account when dealing with relevant matters and should consider the elaboration of legal instruments regulating the issue in order to prevent statelessness as a result of State succession.

9. The principle that every human being had the right to a nationality had been recognized in the Universal Declaration of Human Rights and in many subsequent international instruments. The 1978 Vienna Convention on Succession of States in respect of Treaties and the 1983 Vienna Convention on Succession of States in respect of State Property, Archives and Debts applied only to the effects of State succession occurring in conformity with international law and with the principles embodied in the Charter of the United Nations; they did not entitle an occupying State to change the nationality of the inhabitants of a territory during temporary occupation or annexation in wartime.

10. Statelessness was a grave affront to human rights and the rule of law. In a recent dispute between Nigeria and Cameroon regarding the nationality of natural persons resident in the Bakassi Peninsula, the International Court of Justice had held that the Peninsula belonged to Cameroon even though the majority of its inhabitants were Nigerian. That finding raised the question of the status of those inhabitants and of whether transfer of the territory would automatically transform them into Cameroonians or whether they would retain their Nigerian citizenship while domiciled in Cameroon.

11. The Governments of Nigeria and Cameroon had settled that question amicably by adopting the Greentree Agreement, according to which each inhabitant could either retain Nigerian citizenship with full rights as a foreigner living in Cameroon, or acquire Cameroonian citizenship. By adhering to the Court's ruling, the Governments had underscored their commitment to international peace and security and their belief that in situations of State succession, the status of natural persons and their right to a nationality must be protected in keeping with international law and international humanitarian law.

12. **Mr. Moeletsi** (Lesotho) said that the Commission had done valuable work in producing the articles at a time when many States were faced with problems relating to State succession. The codification and progressive development of the rules of international law on the agenda item was a means of ensuring greater legal certainty for States and individuals and would help prevent statelessness as a result of the succession of States. The human rights and fundamental freedoms of persons whose nationality might be affected by succession must be fully respected, and such succession must conform to international law and the principles embodied in the Charter.

13. **Mr. Ahmad** (Qatar) said that the right to nationality was recognized in numerous international instruments. However, as stated in the second preambular paragraph of the articles, nationality was essentially governed by internal law within the limits set by international law, and his delegation believed that the granting of nationality was one aspect of state sovereignty.

14. His delegation supported the draft articles even though they had created certain problems — including that of dual nationality, which Qatar did not recognize — and considered them a valuable contribution to resolving the problem of the nationality of natural persons in relation to the succession of States. His delegation did not believe it was advisable to elaborate a convention that was binding in respect of nationality; it would be more useful to adopt the proposal, put forward by the Commission at its fifty-first session, that the draft should be approved by means of a declaration adopted by the General Assembly. That solution would be sufficient to codify the relevant provisions of international law and provide guidance in resolving problems arising from the issue, while enabling States to reconsider the question in the light of new developments.

15. **Mr. Maqungo** (South Africa) said that while the succession of States gave rise to the possibility of statelessness, the right to a nationality was an essential human right that gave natural persons the status necessary for their legal protection. Everyone had a right to the nationality of the State in which he or she was born. It was imperative that any attempts to regulate that fundamental right should be just and in conformity with domestic and international law in order to avoid the unfortunate consequences of statelessness. People should therefore be offered the option of acquiring citizenship in the event of State succession, and anyone without the citizenship of the successor State should be treated as a citizen of the State in respect of which he or she had the right to acquire or maintain citizenship.

16. He commended the efforts of the United Nations to prevent statelessness and to promote peace between States and their residents. States must also play their part in promoting peace by respecting the principle of non-discrimination with regard to the right of citizenship of the successor State; in other words, in accordance with the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, there must be no discrimination based on sex, race, language, religion, political or social opinion, national or social origin, association with a national minority, property, place of birth or social status. His delegation urged States and international organizations to promote the exchange of information and negotiations aimed at upholding every person's right to nationality.

17. **Mr. Rakovec** (Slovenia) said that nationality was one of the most difficult and complex issues arising in

the context of the succession of States, whose international and domestic responsibilities in that regard had been influenced by the stronger protection of human rights and fundamental freedoms secured through the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Although States, as subjects of international law, were sovereign and independent in defining the conditions for acquiring nationality, they must respect international human rights instruments, many of which codified customary international law.

18. When the Socialist Federal Republic of Yugoslavia, the Czechoslovak Socialist Republic and the Union of Soviet Socialist Republics had dissolved, States had been obliged to turn to domestic law to resolve the issue of the nationality of natural persons because there were no international, legally binding standard-setting instruments on the subject. In 1991, when Slovenia had become a sovereign and independent State, its legislation had provided for the legal protection of natural persons who resided in its territory.

19. Although the principle that internal law governed matters of nationality had subsequently been embodied in the 1997 European Convention on Nationality, a more up-to-date analysis of State practice was required. States' comments, the draft articles prepared by the International Law Commission and the conclusions of the current debate would serve as a useful guide to the formulation of clear and authoritative guidelines. An instrument taking that form would be the most appropriate means of enabling States to resolve that issue quickly and efficiently and to give individuals greater protection. At a later stage, if a "soft law" instrument proved to be insufficient, it might be possible to contemplate the drafting of binding rules embodied in an international treaty.

20. **Mr. Lamine** (Algeria) said that the articles were a timely contribution to the development of uniform solutions to the problems resulting from the succession of States. They were intended to provide States with a set of legal principles and recommendations to guide them in preparing their own laws on nationality. He therefore endorsed the Commission's recommendation that the articles should be adopted in the form of a non-binding declaration by the General Assembly, which would contribute to the codification of international law on the question while enabling the States to continue to determine the conditions under which their nationality would be granted, subject to their international obligations, notably in the area of human rights. The attribution of nationality conferred a sense of belonging and represented the ultimate bond of allegiance to a State. It was a profoundly political act which could not easily be regulated through binding international norms, especially in situations involving the succession of States where political concerns predominated. It was therefore important to retain, as far as possible, the discretion of the State concerned to attribute its nationality in light of its own policies and priorities.

21. **Mr. Kuzmin** (Russian Federation) said that legal regulation of the question was of considerable practical significance because of the serious problems connected with State succession which had arisen for a number of States at the end of the twentieth century. The Commission's text was still relevant, notwithstanding the lapse of time since its submission to the General Assembly, because there was still no universal approach, within international law, to the question of nationality in relation to State succession. People were still being rendered stateless as a result of territorial changes, and it was a prime responsibility of the Assembly, in strengthening the primacy of law at the international and national levels, to create a legal regime to protect the rights of those who found themselves in a legal vacuum.

22. Unfortunately, in recent years the Assembly had preferred to put off discussing on their merits the most important of the draft instruments produced by the Commission. The Committee should demonstrate the will to address complex practical issues relating to the primacy of law by developing a text based on the articles and reflecting two core principles: the presumption of nationality from the outset for persons whose habitual residence had been in the territory affected by the succession of States and who held the nationality of the predecessor State, as stipulated in article 5; and the obligation of States undergoing succession to take all necessary steps, including legal steps, to ensure that people living in the affected territory did not suffer as a result of the change. It would be unacceptable if the lack of adequate legal regulation resulted in an increase in the number of stateless people. The principle that everyone had the right to a nationality and that no one should be arbitrarily deprived of one was enshrined in the draft

articles, which ought to become a United Nations convention.

23. **Mr. Moreno Zapata** (Bolivarian Republic of Venezuela) said that the articles struck the right balance between the sovereign right of States to regulate the acquisition or loss of nationality and the human right to a nationality. International law recognized that nationality was governed by domestic law and was to be determined by each State within the limits set by international law, which were designed essentially as safeguards against statelessness. The Constitution and the 2004 Nationality and Citizenship Act of the Bolivarian Republic of Venezuela, together with its mission to protect human rights, ensured that in his country it was practically impossible for statelessness to result from loss of nationality and illegal to revoke a person's nationality on any grounds.

24. His delegation supported the inclusion in the preamble of a reference to other legal instruments dealing with nationality and statelessness; the addition of definitions of such terms as "effective link" (article 19), "appropriate legal connection" (article 22), and "habitual residence" (article 22); the inclusion of jus sanguinis in addition to jus solis in article 13; extension of the concept of non-discrimination in article 15 to include, without being limited to, such grounds of discrimination as race, gender, colour, language, social status, political opinion; and the replacement in article 25 of "[t]he predecessor State shall withdraw its nationality", which limited the possibility of the concerned person having two nationalities, by "[t]he predecessor State may withdraw its nationality". His delegation was in favour of the adoption of a treaty, rather than a declaration, in view of the international instruments already adopted on nationality issues.

25. **Mr. Baghaei Hamaneh** (Islamic Republic of Iran) said that States had a sovereign right to grant or withdraw nationality at their discretion in accordance with the relevant domestic law and regulations, including the international obligations incorporated therein. At the same time, nationality was a human right and States should take every measure to prevent and reduce statelessness, which deprived people of the legal means of protecting their integrity and human dignity. However, in circumstances such as State succession, national laws could not suffice; international rules were needed to regulate the matter. His delegation therefore supported the proposal to elaborate an international legal instrument based on the provisions of the articles annexed to General Assembly resolution 55/153.

26. **Mr. Hafner** (Austria) said that his delegation supported the ultimate goal of elaborating a convention on the topic as it would be the strongest expression of the commitment of States. The need for such an international legal regime was clear from recent developments involving questions of State succession, one of the most important of which was that of nationality. However, the elaboration of a convention soon after submission of the draft articles to the General Assembly could, by provoking unforeseeable amendments, jeopardize the outcome of the entire codification exercise; it might be preferable to allow for an intervening period in order to monitor developments in State practice. His delegation therefore proposed that the topic should be placed on the General Assembly's agenda again at its sixty-fifth session, in 2010, with a view to deferring consideration of the elaboration of a convention until that time.

Agenda item 151: Observer status for the South Centre in the General Assembly (A/63/141; A/C.6/63/L.3)

27. **Mr. Mahiga** (United Republic of Tanzania), introducing draft resolution A/C.6/63/L.3 on observer status for the South Centre in the General Assembly, drew attention to the explanatory memorandum contained in annex I to document A/63/141 and said that the Democratic Republic of the Congo, Kenya, Namibia, Pakistan and Viet Nam had become sponsors. The South Centre was an intergovernmental organization set up in 1994 to support the capacity of the South for addressing major policy issues relating to development, trade, technology and intellectual property. Its headquarters were in Geneva and it had a membership of 51 countries in various regions of the world. He called on the Committee, in keeping with its previous decisions on observer status for intergovernmental organizations, to recommend that the General Assembly should adopt the draft resolution without a vote.

Agenda item 153: Observer status for the University for Peace in the General Assembly (A/63/231; A/C.6/63/L.2)

28. **Mr. Urbina** (Costa Rica), introducing draft resolution A/C.6/63/L.2 on observer status for the

University for Peace in the General Assembly, drew attention to the explanatory memorandum contained in annex I to document A/63/231 and announced that Colombia, Italy and Turkey had become sponsors. The University, which had its headquarters in San José, Costa Rica, had been established pursuant to General Assembly resolution 35/55 as a specialized international institution for post-graduate studies, research and dissemination of knowledge specifically aimed at training for peace. Its purposes were to promote understanding, tolerance and peaceful coexistence, stimulate cooperation among peoples and help lessen obstacles to world peace and progress. As an intergovernmental organization devoted to the aims of the Charter of the United Nations, the University satisfied the requirements for observer status.

The meeting rose at 11.20 a.m.

United Nations A/C.6/63/SR.12

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Summary record of the 12th meeting
Held at Headquarters, New York, on Wednesday, 22 October 2008

Chairperson: Mr. Al Bayati ..... (Iraq)
later: Mr. Lamine (Vice-Chairperson) ..... (Algeria)

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Agenda item 78: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

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08-56415 (E)

The meeting was called to order at 10.15 a.m.

Agenda item 78: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (A/63/33, A/63/98 and A/63/224)

1. **Mr. Medrek** (Morocco), Chairperson of the Special Committee, introduced the report of the Committee (A/63/33). At its meetings held from 27 to 29 February, from 3 to 5 March and on 7 March 2008, the Committee had continued to discuss the matters referred to it by General Assembly resolution 62/69, paragraph 3, subparagraphs (a) to (f). Chapter I of the report dealt with the procedural aspects of the session, and chapter II contained its recommendations and decisions submitted to the General Assembly. Chapter III covered the Committee's consideration of the revised working paper submitted by the Russian Federation entitled "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations"; the question of the implementation of the provisions of the Charter relating to assistance to third States affected by sanctions; the revised working paper submitted by the Libyan Arab Jamahiriya on the strengthening of certain principles concerning the impact and application of sanctions; and the working paper submitted by the Russian Federation entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations". At its 252nd meeting, held on 15 February 2007, the Committee had adopted the following recommendation: "The Special Committee recommends inviting the Chair of the Sixth Committee to bring the sections of the reports of the Special Committee referring to peacekeeping operations to the attention of the Chairman of the Fourth Committee". At its 254th meeting, held on 7 March 2008, the Committee had decided not to keep on its agenda the topic covered in the second of the working papers submitted by the Russian Federation.

2. The Committee's consideration of the working papers submitted by Cuba at its 1997 and 1998 sessions was covered in paragraphs 34 to 36 of the report; its consideration of the revised proposal submitted by the Libyan Arab Jamahiriya with a view to strengthening the role of the United Nations in the maintenance of international peace and security was covered in paragraphs 37 and 38; and its consideration of the revised working paper submitted by Belarus and the Russian Federation was covered in paragraphs 39 to 44.

3. Chapter IV of the report (paras. 45-46) dealt with the Committee's discussion of peaceful settlement of disputes. Chapter V reflected its discussion of the status of the preparation of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, and paragraph 51 contained the Committee's recommendations to the General Assembly in that regard. Chapter VI reflected the Committee's discussions of its working methods and identification of new subjects, including, in paragraph 56, the proposal made on behalf of the Rio Group entitled "Consideration of the legal aspects of the reform of the United Nations". Finally, the annex to the report contained the text submitted by the Russian Federation on basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations, in the form resulting from informal negotiations.

4. **Mr. Korontzis** (Deputy Director of the Codification Division, Office of Legal Affairs) introduced the report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* (A/63/98). An updated chart on the status of the *Repertory of Practice of United Nations Organs* had been distributed and was available to delegations. In 2008 the Secretariat had finalized and submitted for translation and publication volume V of Supplements Nos. 8 and 9 (1989-1994 and 1995-1999). Consequently, volumes I and V for Supplements Nos. 1 to 9 had been brought to completion, and all studies pertaining to those volumes were available on the website of the *Repertory* (www.un.org/law/repertory). Advance versions of several studies on individual articles of the Charter, pertaining to volume II (Supplements Nos. 7, 8 and 9) and volume IV (Supplements Nos. 8 and 9), had been placed on the Internet. The original *Repertory* and its supplements would consist of 50 volumes, covering the period from 1946 to 2005. Twenty-eight volumes had been published, and six had been finalized and submitted for translation and publication. Consequently, 16 volumes had still to be completed, and 7 of them were in various stages of preparation. As indicated in the report of the Secretary-General (A/63/98), studies from 34 completed volumes were available on the website of the *Repertory*, as well as all

completed studies and a large number of studies in other languages. The Secretariat was endeavouring to make accessible on the website, by the end of 2008, all the available three-language versions of the *Repertory* studies.

5. Turning to cooperation with academic institutions, he said that the cooperation with Columbia University's Law School, now in its fifth consecutive year, had contributed to the preparation of studies pertaining to volume II of Supplements 7, 8 and 9. The collaboration project established with French-speaking academic institutions had continued to yield results, and advance versions of several studies in French by those institutions, pertaining to volume II of Supplements Nos. 7, 8 and 9, and volume IV of Supplements Nos. 8 and 9, had been placed on the Internet.

6. In accordance with the General Assembly's request in resolution 62/69, paragraph 10, for voluntary contributions to the trust fund for the elimination of the backlog in the *Repertoire*, a note verbale had been sent to all Permanent Missions to the United Nations. The Secretary-General noted with appreciation the donations to the trust fund made by the Governments of Albania, Guinea and Turkey.

7. **Mr. Boventer** (Chief of the Security Council Practices and Charter Research Branch, Department of Political Affairs) explained the status of the *Repertoire of the Practice of the Security Council*. In preparing the supplements to the *Repertoire*, the Secretariat had followed the "two-track" approach endorsed by the General Assembly in resolution 62/69: it had been working simultaneously on several Supplements, focusing on the contemporary practice of the Security Council, while also covering its practice during the previous decade. It was now working on the thirteenth, fourteenth and fifteenth Supplements, dealing with the period 1996-2007. The major achievement of the current year was the near completion of the thirteenth Supplement, covering the period 1996-1999, which would shortly be available electronically in the advance version. All the procedural and constitutional chapters of the fourteenth Supplement, covering the period 2000-2003, had likewise been completed, and the remaining chapter would be completed in mid-2009. The preparation of the fifteenth Supplement, covering the period 2004-2007, was under way, and several procedural chapters were available on the website in the advance version. The Branch had been laying the groundwork for preparation of the sixteenth Supplement, covering the period 2008-2009, by tracking and recording the most contemporary practice of the Security Council in internal databases.

8. The eleventh Supplement, for the period 1989-1992, had been published in English in 2007. The remaining language versions were already accessible on the website in the advance version, as was the English language advance version of the completed twelfth Supplement, for the period 1993-1995.

9. The Branch provided information, on request, on questions relating to both the current and the past practice of the Council and its subsidiary organs, and had responded in a timely manner to no fewer than 160 such requests in 2008.

10. In the recent Supplements the Branch had striven, through measures enhancing the efficiency of its work, to reflect the increasing pace and complexity of the activities of the Security Council and its subsidiary organs, the new dimensions in the interpretation and application of the Charter, and the initiatives for enhanced cooperation with other principal organs of the United Nations. The Branch continued to submit the edited volumes of the *Repertoire* for translation and publication in all the official languages, and every effort was being made to ensure that the latest approved chapters would be available electronically to the public in all those languages. It had posted online advance versions of the eleventh Supplement in Arabic, Chinese, French, Russian and Spanish, as well as in English.

11. The Branch was grateful for Member States' contributions to the trust fund and for the sponsorship of associate experts by the Governments of Germany, Italy and Norway. He appealed to Member States to continue their support either through voluntary contributions to the fund or through sponsoring an associate expert.

12. **Ms. Orina** (Kenya), speaking on behalf of the Group of African States, said that she wished to lay stress on what had been agreed in the 2005 World Summit Outcome with regard to sanctions, the rule of law and strengthening the United Nations. The Security Council's power to impose sanctions should be exercised in accordance with the Charter of the United Nations and international law. Sanctions should be considered only after all means of peaceful settlement of disputes under Chapter VI of the Charter had been

exhausted; they should have a specified time frame and should be lifted as soon as their objectives had been achieved. They should be non-selective and targeted in order to mitigate adverse humanitarian effects. There was a need for strict compliance with Article 50 of the Charter, which provided that a State confronted with special economic problems arising from the carrying out of preventive or enforcement measures against another State had the right to consult the Security Council with regard to a solution. The Group commended the work done so far by the Informal Working Group of the Security Council on General Issues of Sanctions.

13. The Group of African States rejected the imposition of unilateral economic sanctions against developing countries as an instrument of foreign policy, considering such sanctions to be a violation of international law and the right to development. The Group continued to support the salient points raised in the proposal of the Libyan Arab Jamahiriya on the strengthening of certain principles concerning the impact and application of sanctions, in particular the payment of compensation to target and/or third States for damage done by sanctions found to have been imposed in a manner inconsistent with the Charter.

14. While urging Member States to make the most effective use of existing procedures for peaceful settlement of disputes, the Group also reaffirmed the important role played by judicial mechanisms, inter alia, the International Court of Justice.

15. The Group of African States welcomed the progress made in eliminating the backlog in the publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and supported the conclusions contained in the report of the Secretary-General on those publications.

16. **Mr. Alday González** (Mexico), speaking on behalf of the Rio Group, said that he would like to underscore the importance of the Special Committee's work to the revitalization and strengthening of the Organization. Full realization of its mandate depended on the political will of Member States and thoroughgoing application of its newly approved methods of work, as well as a solid thematic agenda with new topics that would make the best use of the resources assigned to it. In an effort to reinvigorate the work of the Special Committee, the Rio Group had submitted a specific proposal entitled "Consideration of the legal aspects of the reform of the United Nations", which provided for the possibility of a technical review, in response to specific requests by the General Assembly, of legal aspects of the reform of the Organization. The Group intended to provide detailed responses concerning the rationale, scope and details of the proposal at the next session of the Special Committee.

17. The Rio Group reaffirmed the importance of the peaceful resolution of disputes and reiterated its conviction that legitimacy in the imposition and application of sanctions made them more effective and contributed to the maintenance of international peace and security. Therefore, it was important for the Special Committee to make an effort to finalize the Russian working paper entitled "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations" (A/63/33, annex), bearing in mind recent developments in that regard.

18. The Rio Group recognized the value of the *Repertory of Practice of the United Nations* and the *Repertoire of the Practice of the Security Council* and commended the progress achieved in bringing them up to date and making the *Repertory* available on the United Nations website.

19. **Ms. Vargas Walter** (Cuba), speaking on behalf of the Non-Aligned Movement, said that the Movement attached great importance to the work of the Special Committee, which should play a key role in the current reform of the United Nations. Essential elements of that reform were the democratization of its principal organs and respect for the role and authority of the General Assembly as the chief deliberative, policymaking and representative organ of the United Nations, including on questions related to international peace and security. The intergovernmental and democratic character of the Assembly and its subsidiary bodies had greatly contributed to promoting the purposes of the Charter and the objectives of the Organization.

20. The Non-Aligned Movement was concerned about the encroachment of the Security Council on the functions and powers of the General Assembly and the Economic and Social Council on issues within their competence, particularly the Council's attempts to enter areas of norm-setting that fell within the purview

of the Assembly. The reform of the Organization must proceed in accordance with the principles and procedures and within the legal framework established by the Charter.

21. The Non-Aligned Movement believed that the imposition of sanctions should be considered a last resort. Sanctions were blunt instruments, and their use raised the ethical question of whether inflicting suffering on vulnerable groups in the target country was a legitimate means of applying pressure. Sanctions were not intended to punish or otherwise exact retribution from the general population. The objectives of a sanctions regime and the conditions for lifting them should be clearly defined. Sanctions should be imposed on the basis of sound legal grounds and have a specific time frame; they should be subject to periodic review and should be lifted as soon as the objectives were achieved. Sanctions should only be imposed when there was an actual threat to international peace and security and should not be applied "preventively". Targeted sanctions might be a better alternative, provided they did not victimize the population of the targeted State, directly or indirectly. The Special Committee had before it important proposals in that regard, which urgently required debate.

22. **Mr. Renié** (France), speaking on behalf of the European Union, the candidate countries Turkey and the former Yugoslav Republic of Macedonia, the stabilization and association process countries and potential candidates Albania, Montenegro and Serbia and, in addition, Armenia, Republic of Moldova, Norway and Ukraine, said that the revised working paper submitted by the Russian Federation (A/63/33, annex) required further improvement before the Committee could finalize its consideration of it.

23. Sanctions applied in conformity with the Charter of the United Nations were a valuable tool for maintaining or restoring international peace and security but, if they were to be credible and effective, they must be carefully targeted, safeguard the right to due process of the persons concerned and take account of the need to minimize their adverse effects on third States. They must be efficiently applied and monitored, periodically reviewed and kept in place only as long they were needed.

24. The European Union welcomed the substantial progress made on the topic by the Informal Working Group of the Security Council on General Issues of Sanctions, whose report (S/2006/997, annex) contained an impressive list of good practices and methods which would help the Security Council to target sanctions more accurately and effectively. While the Security Council had improved listing and de-listing procedures pursuant to resolutions 1730 (2006) and 1822 (2008), it must be remembered that any exemptions granted under resolutions 1452 (2002) and 1735 (2006) to cover basic and extraordinary expenditure by persons on the sanctions committees' lists should be made solely for humanitarian purposes. The Special Committee's further deliberations concerning sanctions regimes must pay due heed to those developments because it was essential that listing and de-listing procedures were fair and clear.

25. There was no longer any need to keep the topic on the Special Committee's agenda, in view of the fact that, for several years, no Member States had requested assistance on account of particular economic difficulties caused by the application of Security Council sanctions to another State, because carefully targeted sanctions were having minimal effects on the civilian population and third States.

26. The Secretariat's endeavours to reduce the backlog in the preparation of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* were likewise commendable because both publications were important for all the reasons set out in paragraph 47 of the Special Committee's report. The European Union was pleased to note the enhanced cooperation with academic institutions and the progress made towards making both publications, including advance versions, available on the Internet. It was also grateful to States which had made contributions to the trust funds established for the preparation of those publications. It urged other Member States to follow their example.

27. The new working methods adopted in 2006 must be fully implemented. The Special Committee's session should be shortened to one week in order to achieve a more focused discussion of essential items. Issues which had been examined for many years and on which no consensus seemed likely in the near future could be deleted from the agenda or studied at intervals of two or three years. Similarly, the European Union had reservations about adding new topics to the Special Committee's already lengthy agenda. For that reason, it was necessary to clarify the contents of the Rio Group's proposal to introduce a new item entitled

"Consideration of the legal aspects of the reform of the United Nations" before devoting any further study to it.

28. **Mr. Shautsou** (Belarus) said that the Special Committee was the appropriate forum for considering various legal aspects of the reform of the United Nations, including those deriving from the 2005 World Summit Outcome. His delegation therefore supported the Dominican Republic's proposal, on behalf of the Rio Group, and called upon States to demonstrate the political will to follow it through.

29. The effectiveness of the action taken by any international body depended on the relevance of the documents prepared by it. The legal regulation of sanctions was crucial and, for that reason, the General Assembly should forthwith adopt a declaration or resolution on the revised Russian working paper on the topic (A/63/33, annex). If any further work were required on the working paper, a special working group could be established by the General Assembly for that purpose. That working group's functions could not be regarded as duplicating those of the Security Council. By adopting a resolution on that document, the General Assembly would be acting in accordance with Article 11, paragraph 1, of the Charter.

30. Sanctions must be adopted only as a last resort to address situations constituting a threat to international peace and security. When applying them, special care should be taken to objectively assess their possible consequences from a humanitarian standpoint. Sanctions must not worsen the situation of the civilian population of a country on which sanctions had been imposed, or undermine the economies of those countries for many years. It was also important to assess the impact of sanctions on third States and to provide effective and comprehensive assistance to third States affected by sanctions. The outcome of the Special Committee's work on sanctions should be consolidated in a corresponding international document.

31. The Special Committee's work was of significance in matters related to the maintenance of international peace and security. It would therefore be advisable for the Special Committee to keep such questions on its agenda, including the recommendation from Belarus and the Russian Federation that the International Court of Justice should be requested to give an advisory opinion as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence.

32. The Secretariat's efforts to prepare the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* were laudable, since those publications were a mine of practical information and of great use for research into the history of the Organization's practice.

33. In view of the significance of the Special Committee's activities, consideration of ways to improve its working methods must not impinge on or hinder its work on fundamental questions, which was its raison d'être.

34. **Ms. Guo** Xiaomei (China) said that, as sanctions had an extensive impact and were to some extent a coercive measure, they must be made subject to stringent criteria. When imposing sanctions it was necessary to comply with the Charter of the United Nations and the principles of international law. Sanctions could be used only to address threats to and breaches of international peace and security and when all means of peacefully settling disputes had been exhausted. Furthermore, it was necessary to set clear goals for sanctions, conduct periodic reviews and lift sanctions as soon as their goals had been achieved. It was vital to avoid harmful effects on civilians and third countries as far as possible. The revised Russian working paper (A/63/33, annex) had incorporated the views of all sides and should be given further consideration in order to achieve results in the near future.

35. Despite the fact that the Security Council had improved procedures for listing and de-listing individuals and entities on sanctions lists and had established a focal point for that purpose, there was still a possibility that sanctions might produce harmful effects on third States. It was therefore necessary, as a matter of priority, to design better methods of assessing the effects of sanctions on third countries and to explore ways of assisting those countries.

36. Her delegation hoped that the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* would be published simultaneously in all six official languages of the United Nations.

37. The Special Committee should consider new agenda items, but none of them should pertain to the

issue of amending the Charter before a clear mandate from the General Assembly had been obtained.

38. **Mr. Sethi** (India) said that his delegation was pleased to note that the Security Council had adopted various measures to mitigate the effects of sanctions and that, by carefully targeting the latter, it had been possible to achieve significant reductions in unintended economic consequences for third States. It was also pleased to note that, as a result of those steps, for several years no Member State had approached any sanctions committee to report special economic problems arising from the implementation of sanctions. The Russian revised working paper on sanctions (A/63/33, annex) was, however, still relevant. The adoption of fair and clear procedures would strengthen the effectiveness and credibility of sanctions regimes, and a comprehensive framework would offer the requisite transparency of procedures. He expressed the hope that the Special Committee would be able to conclude its deliberations on the Russian proposal at its 2009 session and to recommend its adoption by the General Assembly.

39. The *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* should be updated, as they were a valuable source of information on the application of the Charter and an indispensable tool for preserving the institutional memory of the United Nations.

40. Since strengthening the role of the Organization entailed work on such sensitive and crucial issues as promoting the rule of law, India attached great importance to revitalizing the General Assembly, democratizing the Security Council and increasing the number of its permanent and non-permanent members. His delegation therefore supported the Rio Group's proposal to task the Committee with examining the legal aspects of the reform of the United Nations.

41. **Mr. El Shinawy** (Egypt) said that it was necessary to strengthen the role of the United Nations in preventing international conflicts, promoting the peaceful settlement of disputes and enforcing the principles of international law embodied in the Charter. In doing so, it must strive to avoid selectivity and double standards and make full use of the Secretary-General's good offices and mediation. The Special Committee played a crucial role in providing the framework for such endeavours.

42. All the main organs of the United Nations must abide by their mandates as established in the Charter. In particular, the Security Council must focus on maintaining international peace and security and ensuring that all Member States respected its role and implemented its resolutions. His delegation therefore hoped that the Special Committee would study the final report and recommendations from the Austrian Initiative 2004-2008, on the role of the Security Council in strengthening a rules-based international system (A/63/69-S/2008/270). At the same time, negotiations on the expansion and reform of the Security Council should continue, and special attention should be given to enhancing transparency, accountability and the participation of States and concerned parties in Security Council debates on conflicts, with a view to reaching a just settlement.

43. Sanctions should be imposed only after all peaceful means of settling a dispute had been exhausted and the State concerned had refused to comply with General Assembly or Security Council resolutions. The purpose of sanctions should be to persuade the State in question to cooperate with the international community. Sanctions must not be used to attain political goals, such as regime change, since that would weaken international peace and security. Sanctions should have precise time limits and be lifted as soon as they expired. They should be imposed gradually so that their effects and usefulness could be reviewed. Humanitarian aspects must be taken into account when imposing sanctions; the latter must not damage neighbouring States. The Security Council must base its assessment of situations threatening international peace and security on reliable information and must maintain its neutrality and objectivity when evaluating that information.

44. The Russian Federation's revised working paper on sanctions (A/63/33, annex) included the main elements needed to ensure the development of the Security Council sanctions system based on respect for the principles of the Charter and international law. The mere fact that no third States had complained of adverse economic effects caused by sanctions was not sufficient reason to conclude that no such negative, unforeseen or unintended consequences existed. His delegation urged affected third States formally to report any such consequences.

45. It would be wise to request the International Court of Justice to give an advisory opinion on the

legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence. Such a move would strengthen the implementation of the provisions of the Charter and confirm the importance of not resorting to the use of force except within the framework of international law.

46. He commended the Secretariat's efforts to reduce the backlog in the preparation of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and looked forward to their publication on the Internet in all six official languages of the United Nations.

47. **Mr. Yola** (Nigeria) said that although sanctions applied in accordance with the Charter of the United Nations were an important tool in the maintenance and restoration of international peace and security, they should be designed so as to minimize any adverse impact on civilian populations and third States, and they should be implemented and monitored effectively. He therefore welcomed the report of the Informal Working Group of the Security Council on General Issues of Sanctions (S/2006/997, annex) and expressed the hope that efforts of that kind would continue. He also supported the call for the establishment of a working group to study the unintended effects of sanctions on third States. The fact that no sanctions committees had been approached, during the period under review, by Member States with regard to special economic problems arising from the implementation of sanctions (A/63/224) did not necessarily mean that no third States had suffered unintended consequences of targeted sanctions. He supported the call for a mechanism to assist third States when sanctions were introduced. Such a mechanism should not be dependent on a specific request from third States. Pre-assessment reports on the likely or actual unintended impact of sanctions on third States, as requested in paragraph 14 of General Assembly resolution 62/69, should be continued.

48. In conclusion, he welcomed the progress made in eliminating the backlog in the publication of the *Repertory of Practice of the United Nations* and the *Repertoire of Practice of the Security Council*, which were valuable both for research purposes and for preserving the institutional memory of the United Nations.

49. **Mr. Abdelsalam** (Sudan) said that the central role of the Special Committee in providing a constant reminder of the need for compliance with the Charter had led to the adoption of important General Assembly documents on the prevention and peaceful settlement of disputes and on cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security. In that regard, however, the uncontrolled use of coercive measures as a tool of political pressure and economic ruin was disturbing; in a blatant example of double standards, sanctions were now seen as the quickest means of achieving narrow national aims. In the case of threats to peace, sanctions should be imposed only as a last resort, in accordance with strict objective criteria, after all peaceful means of settlement had been exhausted. That being so, there was merit in the proposal that the International Law Commission should consider the legal consequences of unlawful sanctions with a view to ensuring that sanctions were not imposed selectively, as a preventive measure or in violation of international law.

50. Concerning the working methods of the Special Committee, he noted that a number of key proposals had been widely discussed and approved but had thus far failed to appear as official documents owing to the lack of political will in certain quarters. It was consequently essential to update the mechanism for the adoption of such proposals so that they did not remain indefinitely on the Committee's agenda. In conclusion, he commended the steady progress of work relating to the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*.

51. **Mr. Gouider** (Libyan Arab Jamahiriya) said that the legal implications of the commitments to United Nations reform made at the 2005 World Summit still required further consideration, in which regard the Special Committee had a vital role to play. The application of sanctions was another important issue. On that score, any Security Council measures should be taken in conformity with the Charter and the provisions of international law, and only following the exhaustion of all other legal remedies. Such measures should also be based on objective criteria and devoid of any political aims. Anyone imposing arbitrary sanctions should be held accountable and liable to compensate for any indirect consequences of unlawful sanctions. Lastly, as articulated in the revised Libyan

proposal on strengthening the role of the United Nations in the maintenance of international peace and security (A/AC.182/L.99), the true democratization of United Nations institutions and the relationship between the General Assembly and the Security Council lay at the heart of any reform. Those issues should therefore remain as key items on the Committee's agenda until such time as their consideration was complete.

52. **Ms. Fanny** (Côte d'Ivoire) said that her delegation attached great importance to the Special Committee's work, as sanctions had been imposed on Côte d'Ivoire in November 2004 and were still in place, more than a year and a half after the signing of a peace agreement endorsed by the Security Council. Her Government could not understand why they were being maintained. She supported the revised working paper submitted by the Russian Federation (A/63/33, annex), which should continue to be considered on a priority basis by the Special Committee. That paper paid attention to the interests of the international community which, as a whole, wished to end any threat to international peace and security; most importantly, it took into account the potential impact of such sanctions on the behaviour of the target State or population. Her delegation welcomed the proposal to set up a working group to study that issue in the light of the unintended consequences of sanctions for civilian populations and third countries, for which, moreover, support should be provided without a specific request being required. The Security Council and its sanctions committees had made progress in improving their practices. However, no additional conditions or procedures should be introduced for de-listing: sanctions should be lifted in the same way as they had been imposed.

53. She hoped that the Fourth Committee would take into account the recommendations contained in the working paper entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations", referred to in the Special Committee's report (A/63/33), and would incorporate them into the Peacekeeping Operations Manual. Her delegation supported the proposal made by the Libyan Arab Jamahiriya for the strengthening of the Organization's role in the maintenance of international peace and security and continued to attach importance to an enhanced role for the General Assembly in that regard.

54. **Mr. Al-Adhami** (Iraq) said that his country attached enormous importance to the matter of sanctions, the living standards, education and health of the blameless Iraqi people having been adversely affected by the imposition of sanctions that, conversely, had had no impact on the lives of officials. In imposing sanctions, it was therefore vital for the Security Council to abide by the Charter and respect the principles of international law, in particular humanitarian and human rights law. Moreover, sanctions should be used only as an exceptional measure of limited duration in clearly justified cases and only after all other means for peaceful settlement of the dispute in question had been exhausted. The lists of individuals and entities maintained by various Security Council Committees should also be reviewed periodically, or as necessary, and the de-listing mechanism improved.

55. He endorsed the Committee's recommendation to continue to consider, on a priority basis, the revised working paper submitted by the Russian Federation on the subject of sanctions (A/63/33, annex) which contained elements vital to ensuring that sanctions imposed under Chapter VII of the Charter did not turn into the collective punishment of innocent people. Lastly, he said that regional organizations had a significant role to play under Chapter VIII of the Charter in the peaceful settlement of disputes of regional origin that posed a threat to international peace and security.

56. **Ms. Ramos Rodríguez** (Cuba) said that her delegation supported the recommendation that any amendment to the Charter of the United Nations resulting from the current reform process should be negotiated within the framework of the Special Committee and hoped that the reform would lead to the democratization of the United Nations, in strict compliance with the purposes and principles of the Charter. A lasting solution must be found to the issue of assistance to third States affected by the application of sanctions, in accordance with Chapter VII of the Charter. In keeping with the spirit of the Charter, the imposition of sanctions was an extreme measure, to be considered only in the event of a real threat to peace after exhaustion of all the peaceful means provided for in its Chapter VI and following a careful examination of all the short- and long-term effects of such sanctions. Sanctions regimes must be directed towards clear goals and should be reviewed, suspended or

immediately lifted upon fulfilment of those goals. Any attempt to use sanctions to change the political or legal order of a State was a breach of international law. States needed to be flexible in discussing the proposals before the Special Committee, whose achievements to date had been limited by a lack of political will, and not by its working methods.

57. She welcomed the updating of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, which were part of the institutional memory of the United Nations and an important research tool for experts.

58. **Ms. Zabolotskaya** (Russian Federation) said that the Russian revised working paper on "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations" (A/63/33, annex) was still of cardinal importance. The revised version took into account recent documents of the General Assembly and the Security Council, proposals made by delegations and provisions which had the approval of all members of the Committee. The three sections of the document, "General issues", "Unintended side effects of sanctions" and "Implementation", were intended to govern the general conditions for the use of sanctions, provide a mechanism for mitigating their undesirable humanitarian consequences, and strengthen the sanctions regime. Discussion of the document at the forthcoming session of the Special Committee would serve to reconcile divergent points of view, and it could then be approved at the subsequent session of the Sixth Committee. Her delegation was planning to initiate consultations on it before the Special Committee began its next session, and she hoped delegations would make a constructive contribution to that process.

59. On the question of the identification of new subjects for the agenda of the Special Committee, her delegation was willing to consider the proposal submitted on behalf of the Rio Group, entitled "Consideration of the legal aspects of the reform of the United Nations".

60. **Mr. Adi** (Syrian Arab Republic) said that he was gravely concerned by the double-standard criteria and policies applied in the case of sanctions, which were now being used more than ever before, often at the expense of credibility. The arbitrary imposition of unlawful sanctions as a means of exerting political and economic pressure was a dangerous practice and was inconsistent with international law. In legitimate cases, sanctions should be imposed only under Chapter VII of the Charter following the exhaustion of all other remedies under Chapter VI in order to avoid adverse consequences for the target State and also for third States. To that end, the Security Council should fairly consider the short- and long-term effects of sanctions, bearing in mind that collective punishment was not their intended purpose.

61. Consideration should also be given from the outset to the steps to be taken by the target State for the lifting of sanctions, in strict compliance with the Charter. A time limit should be set and sanctions lifted as soon as the threat to international peace and security was removed. As for third States affected by sanctions, they should be entitled to claim compensation and to seek the establishment of basic criteria for the imposition of sanctions, as well as appropriate ways of preventing or minimizing any adverse effects.

62. In that connection, the revised working paper submitted by the Russian Federation (A/63/33, annex) was extremely important and merited full consideration and support. He also supported the revised working paper submitted by the Libyan Arab Jamahiriya (A/AC.182/L.99) and the working papers submitted by Cuba (A/AC.182/L.93 and Add.1), all of which related to strengthening the role of the Organization, in particular the Security Council. To that end, it was essential to increase the membership of the Council and reform its working methods with the utmost speed, thereby guaranteeing its transparency, effectiveness and democratization. Equally essential was the need to enhance the role of the General Assembly as the principle legislative, policymaking and representative organ of the United Nations and halt the infringement of its mandate by the Security Council. He further supported the revised working paper submitted by Belarus and the Russian Federation at the 2005 session of the Special Committee (A/60/33, para. 56), which contained a proposal to seek an advisory opinion from the International Court of Justice on a question relating to the legal consequences of the use of armed force. If adopted, that proposal would strengthen the principle of the non-use of force or threat of force and end attempts to justify the unilateral use of force, without authorization by the Council, on spurious grounds of self-defence, which was a violation of the Charter. In conclusion, he emphasized the importance of the

Repertory of Practice of United Nations Organs as a repository of institutional memory.

63. **Mr. Dieng** (Senegal) said that the application of sanctions must be predicated on the provisions of the Charter of the United Nations and be in keeping with the standards and principles of international law. The sanctions should be targeted and so designed as to limit any possible impact on civilian populations and third States; they should be a last resort and only be imposed after exhaustion of all peaceful means provided for in the Charter. His delegation remained attached to the implementation of the provisions of the Charter concerning assistance to third countries affected by sanctions and welcomed recent measures taken to that end within the United Nations system as well as the initiative by the Department of Economic and Social Affairs to review the technical procedures used to evaluate the economic effects and indirect consequences of targeted sanctions.

64. The Organization had a special responsibility to promote the peaceful settlement of international disputes, including legal disputes, through recourse to the International Court of Justice. The United Nations should therefore seek to strengthen the basic principles it was designed to serve, which were directed essentially towards the promotion of a just and equitable world order founded on respect for the Charter of the United Nations and international law and the strengthening of multilateralism. Lastly, he welcomed the progress made in updating and publishing the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*.

65. **Mr. Mikanagi** (Japan) said that, while the working methods of the Special Committee had been improved, further progress was needed. Proposals for the addition of new questions for its consideration should be examined in accordance with the strict rules set out in its agreed working methods. Meetings of the Special Committee should accordingly be conducted as efficiently as possible; however, that had not been true of its recent meetings. His delegation was in favour of the discussion of questions recognized by Member States to be of priority importance but believed that such prioritization should take into account the role that the Special Committee could most usefully perform within the United Nations. He welcomed the progress made in updating the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, which provided a useful basis for further improving the work of the United Nations.

66. **Mr. Charles** (Trinidad and Tobago) said that the successful implementation of peacekeeping missions was essential to the work of the United Nations and that the identification of basic principles of neutrality and impartiality could enhance the effectiveness of its role in maintaining international peace and security. His delegation was concerned about the emerging trend towards the use or threat of force by States without the prior authorization of the Security Council. The use of force by any State must be consistent with the Charter and the tenets of international law. The Special Committee had its own part to play in strengthening the role of the United Nations and should continue to consider ways of doing so, in particular by strengthening the provisions of the Charter. The working papers submitted by Cuba on that subject, referred to in the Special Committee's report (A/63/33), continued to offer a basis for the Special Committee's timely and important deliberations thereon.

67. Trinidad and Tobago welcomed the work undertaken within the United Nations on sanctions and related issues. Sanctions were important aids to the maintenance of peace and security. In order for them to remain efficient, however, the negative effect they might have on third States should be minimized and clear objectives established for them; they should be lifted once those objectives had been attained.

68. **Mr. Al-Habib** (Islamic Republic of Iran) said that the Charter of the United Nations placed its Member States under the obligation to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State and to settle their disputes by peaceful means. The unwarranted tendency of certain powers to rely excessively on the unlawful threat and use of force as an instrument of foreign policy was a serious concern and jeopardized the very purposes and principles of the United Nations and international law.

69. The Security Council had the primary but not exclusive responsibility for maintaining international peace and security. Being bound by the purposes and principles of the United Nations, it did not have unlimited discretionary power to have recourse to

coercive measures, including sanctions; it could not exceed the authority vested in it by Member States and it was accountable for its decisions and actions. In cases where it imposed sanctions on the basis of speculation or unreliable information or as a result of political pressure by some members, the injured State should have the right to be fully compensated for any damage thus suffered. His delegation reiterated its request to the International Law Commission to consider the legal consequences of unlawful sanctions against Member States by the Security Council, under the topic "Responsibility of international organizations", with due attention to possible remedies for the targeted State.

70. The Security Council should respect the mandate and power of other United Nations organs, particularly the General Assembly and the Economic and Social Council. The General Assembly, as the Organization's chief representative organ and main policymaking body, should play its key role in addressing issues related to international peace and security. The Special Committee had an important contribution to make to enhancing that role and should address the challenge of the Security Council's encroachment on the mandate and power of the General Assembly.

71. His delegation supported the proposal to seek an advisory opinion from the International Court of Justice as to the legal consequences of the unilateral use of force without the prior authorization of the Security Council, particularly since it highlighted the alarming situations caused by frequent resort to unilateral armed force for purposes other than self-defence, which, according to the Charter, was warranted only in the event of an armed attack. The explicit provisions of the Charter in that regard had been deliberately ignored by certain powers under the pretext of self-defence and in response to non-existent threats. He concluded by commending the Secretariat for its efforts to reduce the backlog in the publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*.

72. Mr. Lamine (Algeria), Vice-Chairperson, took the Chair.

73. **Mr. Moreno Zapata** (Bolivarian Republic of Venezuela) said that his delegation supported the revised working paper submitted by the Russian Federation (A/63/33, annex), in particular the notions that the Security Council should only impose sanctions, which must be in conformity with the Charter and with international law, after all peaceful means of dispute settlement had been exhausted; that sanctions should be targeted; that there should be clear objectives, conditions and time frames for introducing and lifting them; and that they should be subjected to periodic review. Since the purpose of sanctions was to modify the behaviour of the target State, they should be based on an assessment of their possible adverse impact on third States or civilian populations and should not lead to retribution or human rights violations. They should remain in place for as limited a period as possible and should be lifted once their objectives had been achieved or the conditions for their lifting fulfilled. They should never be aimed at overthrowing the legal authorities of a State, and they should be based on reliable information. Before sanctions were applied, a clear warning should be expressed in unequivocal language to the target State. His delegation was firmly opposed to "preventive" or unilateral sanctions. Moreover, the provision of humanitarian assistance to the civilian population must be allowed on the basis of neutrality, independence, transparency and impartiality without any form of discrimination; in emergency situations and cases of force majeure there should be mechanisms for the suspension of sanctions in order to prevent a humanitarian disaster.

74. The authority of the Security Council to impose sanctions was based on the Charter and the rules of international law and was therefore not unrestricted or absolute. That authority should be reconsidered, since any such decision should be taken by the General Assembly as the truly democratic and representative organ of the United Nations. In that regard, his delegation agreed with the proposal in the working papers submitted by Cuba entitled "Strengthening of the role of the Organization and enhancing its effectiveness". There was a need to make the Security Council more representative, transparent and democratic by expanding the number of members in accordance with the principles of sovereign equality and equitable geographic representation.

75. His delegation also supported the proposal submitted by Belarus and the Russian Federation to request an advisory opinion from the International Court of Justice on the legal consequences of the resort to the use of force by States without prior authorization

by the Security Council, except in the exercise of the right to self-defence. The Court's opinion would provide a more precise interpretation of the relevant provisions of the Charter.

76. On the topic of peaceful settlement of disputes, he would simply stress that under Article 2, paragraph 3, of the Charter Member States had assumed the obligation to settle their international disputes by peaceful means, while retaining the right to choose among the means specified in Article 33. With regard to the working methods of the Special Committee, his delegation supported the proposal submitted by the Dominican Republic on behalf of the Rio Group. The proposal was in keeping with General Assembly resolution 62/69 and would strengthen the Special Committee and avoid entrusting the task of evaluating proposed reforms of the Organization to ad hoc committees of experts who did not represent Governments and were not multilateral in their outlook.

77. **Ms. Tansu-Seçkin** (Turkey) said that, as a third State that had suffered considerably from the consequences of sanctions, Turkey had been following with great interest the deliberations of the Special Committee regarding implementation of the provisions of the Charter relating to assistance to third States affected by sanctions. Despite recent progress made on the sanctions regime, the report of the Informal Working Group of the Security Council on General Issues of Sanctions (S/2006/997, annex) did not contain any recommendations on ways to assist untargeted States affected by the unintended impact of sanctions. It would be recalled that an important study had been undertaken by an ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures (A/53/312), and that study still awaited and deserved consideration by the Committee.

78. With regard to consideration of the revised Russian working paper on sanctions criteria (A/63/33, annex), her delegation welcomed the progress made during the most recent session of the Special Committee and encouraged delegations to preserve momentum with a view to concluding the discussions without delay. On the topic of peaceful settlement of disputes, her delegation attached great importance to the principle of free choice of means of dispute settlement. The consent of the parties should be required in order for their disagreement to be referred to a dispute settlement body. It should be stressed that political will and a constructive spirit would be essential in order to make progress on the agenda items before the Special Committee.

79. As for the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, her delegation hoped that its continued contributions would assist efforts in publication and updating of those very important reference sources.

80. **Mr. Simonoff** (United States of America) said that his delegation commended the efforts to reduce the backlog in preparing the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, which were useful resources.

81. It was the view of his delegation that the Special Committee should not attempt to devise norms concerning the design and implementation of sanctions; its activities in that area would be redundant or inconsistent with the roles of the principal organs of the United Nations as set forth in the Charter, in particular Article 24. The report of the Secretary-General in document A/63/224 indicated that in the period under review none of the sanctions committees had been approached by Member States to express concerns about special economic problems resulting from the imposition of sanctions. That was no doubt a result of concerted efforts by the Security Council to impose targeted measures that minimized unintended economic consequences. There was therefore no reason for Member States to consider the establishment of a fund financed from assessed contributions or other financial arrangements through the United Nations to address an abstract concern. The report of the Secretary-General also observed that the Security Council had taken steps to mitigate economic burdens on targeted individuals arising from the implementation of Security Council asset freezes by allowing exceptions for a variety of basic and extraordinary expenses, which could include payment for legal services.

82. With regard to the Rio Group's proposal on the legal aspects of the reform of the United Nations, his delegation agreed that the Committee could have a technical role to play in matters relating to the implementation of any decisions to amend the Charter

of the United Nations, at the appropriate time. Further details about the proposal would be helpful. His delegation did not, however, support the proposal that the General Assembly should request an advisory opinion from the International Court of Justice on the use of force, since that matter was adequately and clearly set forth in the Charter.

83. **Mr. Al-Arwi** (Yemen) said that, in accordance with the principle set forth in Article 2, paragraph 3, of the Charter of the United Nations, his country had settled its border disputes with its neighbours by peaceful means. It attached great importance to the question of sanctions, which should be used only as a last resort in response to threats to international peace and security after all other peaceful means of settlement had been exhausted. In that event, sanctions should be applied in accordance with strict criteria, not to mention full compliance with the Charter and the principles of international law. Similarly important was the need to set fair conditions for the lifting of sanctions and ensure that civilian populations were not targeted.

84. The unilateral imposition of sanctions without Security Council approval was a matter of concern. As for the inclusion of individuals and entities on sanctions lists, it should be transparent, objective and based on legal evidence and sound criteria. Such lists should be regularly reviewed under the relevant guidelines of the Security Council and General Assembly. Furthermore, no extra conditions for the lifting or suspension of sanctions should be imposed unless absolutely necessary. It was crucial to set a time limit for sanctions, which should moreover be lifted as soon as their aim was achieved. Guidelines on the lifting of sanctions and on de-listing should also be prepared. Yemen was not alone, for instance, in its inability to determine the charges levelled against listed individuals, nor did it know how individuals could be de-listed. In conclusion, he expressed support for the efforts under way to strengthen the role of the General Assembly in the maintenance of international peace and security.

The meeting rose at 1 p.m.